

Panaji, 27th May, 1983 (Jyaistha 6, 1905)

SERIES II No. 8

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

Home Department (General)

Notification

No. 2/13/82-HD(G)

In exercise of the powers conferred by sub-section (1) of section 133 of the Criminal Procedure Code, 1973 (2 of 1974), (hereinafter referred to as the said "Code"), the Lieutenant Governor of Goa, Daman and Diu hereby specially empowers all the Executive Magistrates of Talukas in the Union Territory of Goa, Daman and Diu, to exercise within their respective jurisdiction the powers exercisable under section 133 of the said Code:

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

S. M. Naik, Under Secretary (Home).

Panaji, 18th May, 1983.

### Local Administration and Welfare Department

Order

No. 3-39-73-LSG (GEN)

Shri J. P. Singh, I.A.S., Collector, Goa is hereby appointed as Administrator of the Margao Municipal Council, Margao

### Revenue Department

Notification

No. 22/62/83-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. for construction of 33 KV Sub-Station and Staff Quarters at Cuncolim, Salcete (addl. area).

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing com-

with immediate effect in place of Shri Venkatratnam, Director of Transport.

By order and in the name of the Administrator of Goa, Daman and Diu.

K. B. Shukla, Secretary (Ind. & Lab.).

Panaji, 18th May, 1983.

Notification

No. UDD-TCP-1365-68-83

In exercise of powers conferred under clause (II) of Sub-section (3) of Sec. 20 of Goa, Daman and Diu Town and Country Planning Act, 1974 the Government of Goa, Daman and Diu is pleased to appoint Shri K. D. Borwankar, Jr. Town Planner as Member Secretary/Town Planning Officer of Southern Planning Development Authority during the leave period of Shri N. Pandalai, from 2-5-1983 to 18-6-1983 or till Mr. Pandalai resumes duty after expiry of his leave.

2. On return from leave Shri N. Pandalai is reposted as Member Secretary/Town Planning Officer of the said Planning and Development Authority.

By order and in the name of the Administrator of Goa, Daman and Diu.

Alexandre Pereira, Under Secretary (Revenue).

Panaji, 16th May, 1983.

pensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Dy. Collector (Land Acquisition Officer), Panaji to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Dy. Collector (Land Acquisition Officer), Panaji.
3. The Chief Electrical Engineer, Vidyut Bhavan 3rd floor, Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Deputy Collector (Land Acquisition Officer) Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

**SCHEDULE**  
(Description of the said land)

Sr. No.	Taluka	Village/Ward	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Cuncolim	—	313(part)	Court Receiver.	2200.00
<p style="text-align: center;"><i>Boundaries:</i>  North: Survey No. 313.  South: — do —  East: Survey No. 313 and part of area already acquired.  West: Survey No. 272 and Survey No. 313.</p>						
Total .....						2200.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Revenue-I).

Panaji, 13th May, 1983.

**Public Health Department**

Order

No. 5/178/80-PHD

On the recommendations of the Local Departmental Promotion Committee, the Administrator of Goa, Daman and Diu is pleased to promote Shri B. Satyanath, Lecturer in Microbiology, Goa College of Pharmacy, to the post of Assistant Professor of Pharmacy, in the Goa College of Pharmacy, in the pay scale of Rs. 1100-50-1600, purely on ad-hoc basis, with immediate effect, until further orders, against the post created vide Government Order No. PHD/12(2)/73/GCP/2911 dated 22-2-1974 and redesignated vide Order No. 1/2/79-PHD dated 6-9-1980 and revived vide Order No. 1/2/79-PHD dated 25-1-1983.

The above appointment will not bestow on the person a claim for regular appointment and the services rendered on ad-hoc basis in the grade would not count for the purpose of seniority in the grade and for eligibility for promotion to the next higher grade.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Health).

Panaji, 21st May, 1983.

Order

No. 6/11/82-PHD

The following transfers of the Officers in the Directorate of Health Services, Panaji are hereby ordered with immediate effect.

Sl. No.	Name of the Officer/designation and present posting	Designation and place of posting
1	2	3
1.	Dr. (Mrs.) P. V. Kolhatkar, Eye Surgeon, Marwar Hospital Daman.	Sr. Ophthalmic Surgeon, Asilo Hospital Mapusa, against the post created vide order No. 1/16/82-PHD Dt. 10-9-82.
2.	Dr. Jayesh Kudchadkar, Surgeon, upgraded P.H.C. Curchorem.	Surgeon, upgraded P.H.C. Pernem, against the post created vide order No. 1/16/82-PHD Dt. 10-9-82.

1	2	3
3.	Dr. Gurudas Mahambre, Health Officer, Aldona.	Health Officer Pernem, vice Dr. J. P. Furtado transferred.
4.	Dr. Joaquim P. Furtado, Health Officer, Pernem.	Health Officer Aldona, vice Dr. G. Mahambre transferred.
5.	Dr. Shanilo Fernandes, Rural Medical Officer, R.M.D. Arambol.	Rural Medical Officer, R.M.D. Mandrem, against vacant post.
6.	Dr.(Mrs.) Moora Bharati, Rural Medical Officer, R.M.D. Guleli.	R. M. O. R. M. D. Volvoi, against vacant post.
7.	Dr.(Mrs.) Rajnanda Dessai, Rural Medical Officer, R.M.D. Thane Satari.	Medical Officer, P.H.D. Valpoi vice Dr. Dhaujecar transferred.
8.	Dr. Pradeep Dhaujecar, Medical Officer, P.H.C. Valpoi.	Medical Officer Asilo Hospital vice Dr. Ananta Amonkar transferred.
9.	Dr. Ananta Amonkar, Medical Officer, Asilo Hospital-Mapusa.	Medical Officer, P.H.C. Aldona vice Dr. Adolfo Dias transferred.
10.	Dr. Adolfo Dias, Medical Officer, P.H.C. Aldona.	Medical Officer, Asilo Hospital Mapusa vice Dr. Filandro Dias transferred.
11.	Dr. Filandro Dias, Medical Officer, Asilo Hospital, Mapusa.	Medical Officer Hospicio Hospital, Margao vice Dr. Rajendra Sanvordecarr transferred.
12.	Dr. Rajendra V. Sanvordecarr, Medical Officer, Hospicio Hospital-Margao.	Medical Officer T.B. Sanatorium Margao vice Dr. (Mrs.) E. Coutinho transferred.
13.	Dr. Fernando Menezes, Medical Officer, Asilo Hospital Mapusa.	Medical Officer, Urban Health Centre Mapusa vice Dr. S. Ramaswamy transferred.
14.	Dr. S. Ramaswamy, Medical Officer, P.H.C. Mapusa.	Medical Officer (I.C.D.S.), P.H.C. Bicholim vice Dr. H. P. Kamat transferred.
15.	Dr. Heramb P. Kamat, Medical Officer, P.H.C. Bicholim.	Medical Officer (I.C.D.S.), P.H.C. Pernem vice Dr. A. V. Naik, promoted.
16.	Dr.(Mrs.) Vydhya Kamat, Medical Officer, Asilo Hospital, Mapusa.	Medical Officer P.H.C. Bicholim vice Dr.(Mrs.) M. Kamat transferred.

1	2	3
17.	Dr. (Mrs.) Madhumati Kamat, Medical Officer, P.H.C. Bicholim.	Jr. School Health Officer, P.H.C. Pernem, against vacant post.
18.	Dr. Julio Boadita Ferrao, Rural Medical Officer, R.M.D. Piedade.	Medical Officer Asilo Hospital Mapusa vice Dr. (Mrs.) V. Kamat transferred.
19.	Dr. Jeremy Dias, Rural Medical Officer, R.M.D. Cortalim.	Rural Medical Officer, R.M.D. Piedade vice Dr. J. Ferrao transferred.
20.	Dr. Prakash Raut Desai, Medical Officer, Hospicio Hospital-Margao.	Rural Medical Officer, R.M.D. Cortalim vice Dr. J. Dias transferred.
21.	Dr. Ratnakant K. Lad, Medical Officer, P.H.C. Curchorem.	Jr. School Health Officer, P.H.C. Sanguem, against vacant post.
22.	Dr. Deepak Poi, Rural Medical Officer, R.M.D. Molorem/Khola.	Jr. School Health Officer, P.H.C. Canacona, against vacant post.
23.	Dr. Padmacora Poi, Medical Officer, P.H.C. Betki.	Medical Officer, P.H.C. Canacona vice Dr. P. Quirtoni promoted.
24.	Dr. Shamrao Palondicar, Medical Officer, Hospicio Hospital-Margao.	Medical Officer, P.H.C. Cansaulim vice Dr. Dias Barretto promoted.
25.	Dr. Lanfredo da Costa, Medical Officer, Hospicio Hospital-Margao.	Medical Officer Urban Health Centre, Margao vice Dr. Elmano Rego promoted.
26.	Dr. (Mrs.) Evilasias Coutinho, Medical Officer, T. B. Sanatorium-Margao.	Medical Officer, P.H.C. Curtorim vice Dr. (Mrs.) S. Sawant promoted.
27.	Dr. Anil Pednekar, Rural Medical Officer, R.M.D. Chorao.	Medical Officer Asilo Hospital Mapusa vice Dr. F. Menezes transferred.
28.	Dr. Nishidkumar Naik, Medical Officer, P.H.C. Diu.	Rural Medical Officer, R.M.D. Gogola, Diu against vacant post.

The Officers at Sr. Nos. 3, 6, 7, 9, 11, 14, 16, 18, 20, 22 & 24 should move first.

2. The Directorate of Health Services will not entertain leave application of any kind from any of the transferred officers until the officer takes charge of his/her new posting.

3. The Directorate of Health Services will make immediate arrangements to relieve all the transferred officers—forthwith so as to enable them to take charge of their new postings.

4. All the transferred officers are entitled for transfer TA/DA as per rules.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Health).

Panaji, 20th May, 1983.

#### Order

#### No. 5/97/79-PHD-Drugs Inspector

On the recommendation of the Local Selection Committee, the following candidates are hereby appointed on ad-hoc basis to the posts of Drugs Inspectors in the office of the Drugs Controller under the Directorate of Health Services, Panaji against the posts created vide Government Order No. 1/15/80-PHD, dated 6-9-1980 on the terms and conditions contained in Government Memorandum of even number dated 8/3/83. The following officers should report in the Directorate of Health Services, Panaji immediately.

1. Shri Sharatchandra S. Sardesai.
2. Shri Salim Akbaralli Veljee.
3. Shri Raghuvir D. Bhise.

The above appointment will not bestow on the person a claim for regular appointment and the services rendered on ad-hoc basis in the grade would not count for the purpose of seniority in that grade or eligibility for promotion to the next higher grade.

The above officers have been medically examined and found fit by the Medical Board, Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Health).

Panaji, 19th May, 1983.

#### Order

#### No. 6/11/82-PHD

On the recommendation of the Union Public Service Commission, the doctors mentioned below are appointed to the posts of Medical Officers/Rural Medical Officers under the Directorate of Health Services on regular basis and posted against the places shown against their names until further orders, on the terms and conditions contained in the Government Memorandum of even number dated 23-2-1983. The doctors should report to their place of postings immediately.

The doctors have already been medically examined and found fit by the Medical Board, Panaji.

Sl. No.	Name of the doctor	Designation and place of posting
1.	Dr. (Mrs.) Vandana M. Patankar	Medical Officer, Primary Health Centre, Diu against the vacancy caused due to the transfer of Dr. Nishidkumar Naik, Medical Officer.
2.	Dr. K. Shivaji	Jr. School Health Officer, Primary Health Centre, Valpoi against the vacant post created vide Government Order No. 1/14/81-PHD, dated 16-4-82.
3.	Dr. (Mrs.) E. Pereira	Medical Officer, Primary Health Centre, Candolim against the post caused due to promotion of Dr. Raul Barbosa.
4.	Dr. B. Sayee Babu	Rural Medical Officer, R.M.D., Thane-Satari vice Dr. (Mrs.) Rajnanda Dessai who is transferred.
5.	Dr. Jaikrishna D. Lawande	Medical Officer, Cottage Hospital, Chicalim vice Dr. Kedar Mahatme resigned.
6.	Dr. Albin Paul Mendonca	Medical Officer, Primary Health Centre, Curtorim vice Dr. Quekova Malvadkar promoted.
7.	Dr. (Mrs.) D. M. Nadkarni	Medical Officer, Hospicio Hospital, Margao vice Dr. Shamrao Palondicar who is transferred.
8.	Dr. V. R. Murlidharan	Medical Officer, Primary Health Centre, Betki vice Dr. Poi who is transferred.
9.	Dr. (Miss) Premalata G. Satardekar	Lady Medical Officer, Maternity Home Shiroda against the vacancy of Dr. Herlia Furtado.
10.	Dr. Manoj Kanti Mandal	Medical Officer, Hospicio Hospital Margao vice Dr. Lanfredo da Costa who is transferred.
11.	Dr. Bhimathati Rangarao	Rural Medical Officer, R.M.D. Guleli (Valpoi) vice Dr. (Mrs.) M. Bharati who is transferred.
12.	Dr. Amar Nath Jaiswar	Medical Officer, Maternity Home, Shiroda vice Dr. Umakant Singbal who was promoted.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Health).

Panaji, 21st May, 1983.

## Industries and Labour Department

## Notification

No. 4/1/83-ILD

The below mentioned Order received from the Government of India Ministry of Steel and Mines, Department of Mines, New Delhi is hereby published for general information of the public.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 19th May, 1983.

GOVERNMENT OF INDIA  
MINISTRY OF STEEL AND MINES  
(Department of Mines)

New Delhi, the 24th December, 1982.

## Order

S. O. No. 652

No. 13(6)/80-MVI—In exercise of the powers conferred by clause (a) of the sub-section (I) of the section 16 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957), and in continuation of the Notification of the Government of India in the Ministry of Steel and Mines (Department of Mines) No. 13(6)/80-MVI dated 1st January, 1981 the Central Government hereby specifies the 31st December, 1985 as the date within which all mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, if in force at such commencement, shall be brought into conformity with the provisions of the said Act and the rules made thereunder.

Sd/-

(A. K. Venkata Subramanian)  
Director

## Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 7th May, 1983.

IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN  
AND DIU, PANAJI-GOA

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Reference No.: AIT/4/74

1. Shri Ramesh Naik — Workman/Party I  
V/s.

1. M/s. Marlim Transport Ltd. — Employer/Party II

Workman/Party I, represented by Shri George Vaz, Union Leader.

Employer/Party II, represented by Adv. B. D'Souza.

Panaji. Dated: 22-4-1983.

## AWARD

This is a reference made to this Tribunal by the Government of Goa, Daman and Diu, by its order No. CLE/1/ID(42)/IT-25/73-74/1030 dated 26th August, 1974. The schedule annexed to the order of reference reads as follows:

"Whether the action of the Management of M/s. The Marlim Transport Co. (Pvt.) Ltd., Margao-Goa in terminating the services of Shri Ramesh N. Naik, helper with effect from 7-5-73 is legal and justified?

If not, to what relief the workman is entitled to?"

2. The case of the workman, as per his statement of claim, is that the employer is a Private Limited Company carrying on a bus transport business from Margao to Cortalim-Vasco and back and has a fleet of about 14 buses; the workman was engaged in the year 1969 as a Checking Inspector with a monthly salary of Rs. 100/- and was regularized as fixed employee in the year 1971, with a salary of Rs. 120/- per month; there were no pay scales for the employees. In the year 1972, he received a letter of appointment as helper; he refused to accept this letter, as he had always worked as checking Inspector and the Vice Chairman, when the workman spoke to him about the refusal, also did not want to change his designation in the appointment letter. Because of this refusal, the Management had a grudge against him. As per the Motor Transport Workers Acts and Rules, the employees were entitled to privilege leave, sick leave, but there were no leave rules in this Company and the employees were granted leave when required. Sometime in March 73, he had to proceed on urgent work and was absent from service for one week. On his return, he explained his absence and, by letter dated 31-3-1973, he was directed to appear before the Board of Directors on 5-4-1973. The Board, after hearing him, took a decision that he should be paid wages only from 1st March to 14th March 1973 and thereafter treated as suspended until the next hearing of the Board, i.e. 7th May 1973, which was a very severe punishment for the workman. By letter dated 9-4-1973, this decision of the Board was conveyed to the workman. On 7-5-1973, he had to appear again before the Board and his explanation was sought regarding the refusal of the appointment letter dated 15-10-1972. He explained that he had always worked as checking Inspector and this designation was also mentioned in the payment vouchers; he was ready to receive the appointment letter, in case it showed his correct designation. The Board told him that they would investigate and inform him. However, he was not allowed to resume duties, although his suspension letter suspended him till the next meeting of the Board i.e. 7-5-1973. He was absent from duty from 15-3-1973 to 21-3-1973 which included one Sunday and was not allowed to resume duty on 22-3-1973. His services were terminated by letter dated 20-6-73 w.e.f. 7-5-1973 only because he had refused to take the appointment letter dated 15-10-1972 and had remained absent from 14-3-1973 onwards without intimation, as stated in the letter, when, in fact, he had remained absent from 15-3-1973 to 21-3-1973. This is, according to the workman, a case of victimization against him because he was instrumental in disclosing to the shareholders extra bus trips (black) indulged in by the Company for which no accounts were maintained and this gave rise to the case pending before the Judicial Commissioner's Court against the Chairman and the Vice Chairman of the Company. He has prayed that his dismissal order be set aside and he be reinstated in service with continuity and full back wages.

3. In its written statement, the employer has stated that the father of the workman was one of the share holders of the company and, on his death, his wife got the share transferred in her name. The workman submitted an application on 25-3-1969 requesting the company to give him an opportunity for getting trained in office work. He was appointed as a helper and instructed to remain with the Stand-In-Charge, where he was required to look after the buses arriving at and leaving the bus stand; Shri Prakash Poi Kusholkar, who was the In-Charge of this stand, was instructing the workman from time to time; the workman was performing the duties as a Helper in the Margao bus stand, where the company is having a booth for issuing tickets and supervising the arrival and the departure of the buses. He was never appointed to do the work of Checking Inspector and he was never taken on the pay roll as a ticket Inspector; however, it is true that he was being deputed by his mother to inspect the buses on her behalf in view of the scheme envisaged by the Company by virtue of which the share-holders are appointed from time to time to inspect the buses on the way. As a helper, the workman was required to take training in various capacities as an employee of the Company. Therefore, prior to the issue of the letter of appointment, he was kept under training and, for a short term during the period of training, he was instructed to check the buses but he was never working as checking Inspector; the workman was kept on probation and, during the period of his training,

he was required to do any work except that of driver or conductor; the letter of appointment dated 15-10-1972 was issued to the workman before the expiry of his probation period. The workman, claiming to have special rights as son of a shareholder, refused to accept the appointment letter as helper; his contention was that, though he had worked as a helper, his experience as checking Inspector on behalf of his mother should be taken into consideration and he should be appointed as checking Inspector. There was no vacancy as checking Inspector and, therefore, the Company could not appoint him in such capacity. He was also behaving irresponsibly only because he was the son of a shareholder. One such instance is his absence from duty on the bus stand from 15-3-1973 to 21-3-1973; he reported for duty on 22-3-1973 and, when questioned by the Stand-In-Charge, he said that he had proceeded on leave for his personal work. He was instructed to report in the office and have his absence regularized; he said that he would report on the next day and from that day he never attended any work at the bus stand. The workman addressed a letter on 27-3-1973 to treat his absence as casual leave, but he continued to remain absent. He was asked by letter dated 31-3-1973 to remain present in the office and to meet the Board of Directors. Accordingly, he remained present and submitted an explanation that he had forgotten to seek prior permission before going on leave. At the same meeting, he was also questioned by the Board as to why he had refused to accept the appointment letter. He was advised to accept it; he replied that he would inform his decision on the next day, i.e. 6-4-1973; the workman was informed at the meeting of the Board that he would have to be suspended until final decision about his employment. The workman replied that the Board was free to suspend him from services without any pay. The workman did not report either in the office of the company or the booth of the bus stand on 6-4-1973. He was, therefore, treated as on suspension with half pay as from 14-3-1973 till the final decision of the Board. The workman, by his letter dated 7-4-1973, informed the company that he would not accept the appointment letter; he was given a copy of the decision of the Board taken on 5-4-1973. The workman, in his capacity of representative of his mother, went on 23-4-1973 to check one of the buses of the Company at Cortalim and issued checking report to the conductor of the bus No. 1622 to the effect that he was having Rs. 5/- extra in his pocket. The concerned conductor reported the fact in the office of the company on the very day. From the report of the conductor it is seen that the workman had used abusive language referring to the Vice Chairman and had also asked for the sum of Rs. 5/- which the conductor had in his pocket. The Board of Directors viewed the development seriously and convened a meeting on 7-5-1973, which took place with the presence of the workman and of the conductor. The Board, after hearing both the parties, came to the conclusion that the behaviour of the workman was very bad and, therefore, decided to dismiss him for:

- a) Misbehaviour and abusive language against the Management;
- b) Absence without permission from 14-3-1973 onwards;
- c) And refusal to accept the letter of appointment.

The termination was to be effective as from 7-5-1973 for misbehaviour and insubordination.

It is submitted that the termination of the workman is legal and valid and not due to victimization, as contended by the workman.

4. In his rejoinder, the workman maintains the stand taken in his statement of claim and states that there was no strict enforcement of leave regulations and, although prior sanction had to be obtained, often verbal permission was enough; in the instant case, he had asked for leave, although had not waited for the actual sanction of leave; he has denied the use of abusive language towards the Management and stated that his termination is malafide, in violation of the principles of natural justice, vindictive and far in excess of the offence, if at all committed. The termination order is also bad in law, as it was signed by the Vice Chairman and not by the Chairman.

5. Following issues were framed by the Tribunal:

- "1. Does the Management prove that the workman was appointed as helper?
2. Does the Management prove that the workman remained absent without leave?
3. Does the Management prove that the workman committed acts of insubordination and misbehaviour and was therefore properly removed from service by termination?"

6. The employer has led the evidence of Shri Lalchand N. Shah and Sheikh Ibrahim and the workman, his own evidence and the evidence of one Sheikh Abdul Kadar.

7. Shri Lalchand has stated that he is the Vice President of the Employer Company and the workman the son of one of the share holders. In this capacity, the workman used to inspect occasionally the buses of the Company, authorised by his mother as his father is dead. The workman gave an application (Exh. M-1) for service in the company. Pursuant to this application, he was given a chance to get himself trained in the bus stand control office of the company; he was appointed as helper and designated as such; he has produced the registers maintained under Motor Transport Workers Act (Exh. M-2) wherein at serial No. 31, for 1969, the name of the workman is shown (Exh. M-2A). The date of appointment is shown as 1-1-1972. He was appointed as helper from 1-1-1972 by letter dated 15-10-1972 (Exh. M-3) and till 1-1-1972 he was called helper in training. Exh. M-2 is checked by the Labour Inspector every 2 weeks or once in a month. Inspecting Officer has made entries in the remarks column of Exh. M-2. The workman refused to receive the appointment letter Exh. M-3, as it is seen from the endorsement (Exh. M-3A) on the back of the said letter. Even so, he continued in service as a helper. Exh. M-4 is a report of the Stand-in-Charge regarding the absence of the workman without leave permission and Exh. M-5 is the reply of the workman. On 5-4-1973, there was a meeting of the Board of Directors for which the workman remained present. M-7 is the minutes of the said meeting and M-7A is the resolution passed in that meeting. Exh. M-8 is the letter of the workman and Exh. M-9, M-10 and M-11 are the letters sent to him by the Management. Exh. M-12 is the letter of the workman's mother allowing the workman to collect the inspection card and conduct inspection in the month of April, 1973. The workman collected the inspection card and went on inspection in the month of April 1973. When on inspection, he issued a memo, Exh. M-13, to the conductor Jacinto D'Souza. The conductor filed a report Exh. M-14 in connection with this memo. Inspection fee was paid to the workman on behalf of his mother by stamped voucher (Exh. M-15). On 7-5-1973 the conductor and the workman remained present before the Board of Directors. Exh. M-7 and M-7B and M-7C show what took place before the Board on that day. The decision taken by the Board was communicated to the workman by registered letter, which was returned because the workman was absent (Exh. M-16). Then, a fresh letter Exh. M-17 was sent to the workman also by registered post which was received by him. During the period when the workman received his salary from the Management he has been designated as helper. The earlier payment registers are under the seal of the receiver of the J. C. C. The services of the workman were terminated pursuant to the resolution of the Board dated 7-5-1973. The workman did not come to collect his dues; the same were sent to him by cheque, which was also refused; then, it was sent by money order, which also came back on the ground that the addressee was not found (Exh. M-18). There are no employees in the concerned designated as Inspectors. There is a scheme in the company whereby the share holders are called to do the inspection work and, for this purpose, inspection cards are issued to them.

In his cross, he has stated that the Board of Directors consists of 7 members, Smt. Niqueline Melo e Crasto being the Chairman. No letter was issued to the workman appointing him as a trainee; there is also no record to show that the workman was appointed as a trainee; he was asked to undergo training on 26-3-1969 and he reported for duty on the very day. In form No. X register the workman's name does not appear as trainee or helper prior to Exh. M-2A. Prior to 1-1-1972, the workman would be referred to in the pay sheets. The share holders called for inspection work are issued inspection cards similar to Exh. 12-B(1) of one month's duration. The card Exh. W-1 is a genuine inspection card signed by the Chairman of the Company. It is issued for one year. For staff members such special cards are issued for doing the checking work and also for free transport. There are no regular or permanent Inspectors appointed by the company and no employee has been designated as Inspector in the pay sheets. Exh. W-2 is the note book having 46 pages. On page 1 on 23-7-1972 it is written "Inspector Ramesh Naik"; the signature appearing on the various pages of Exh. W-2 are not of the Chairman. A copy of Jacinto D'Souza's explanation (Exh. M-14) was not supplied to the workman, who was the charging Inspector. The daily report of Jacinto D'Souza was produced before the Directors. After hearing the workman and the conductor Jacinto, the Board came to the conclusion that the checking

report was not to be accepted. The workman was orally told to bring his witnesses and to substantiate his checking report. He was also orally informed about the explanation given by Jacinto D'Souza. Exh. W-2 bears the signature of the Chairman without indicating the official standing. The witness has denied the suggestion that, on completion of one year probation, the workman was appointed as Inspector and allowed to function as such and that he was not a helper.

8. Sheikh Ibrahim, the other witness for the employer, has stated that he is one of the Directors of the Company for the last 14.15 years; that the workman was working for the employer as a Helper, assisting the person stationed at the bus stand; sometimes he used to go on the buses to see the tickets; he was also sent to the garage to look after the buses. In this capacity, he worked for little more than 2 and a half years. The company has a scheme by virtue of which the shareholders or persons authorised by them can inspect the buses; the workman is the son of a share holder and his mother sometimes used to authorise him to do the inspection work.

In his cross, he has stated that he is not aware that the workman was issued any Inspection card like the one Exh. W-1 to work as an Inspector in the year 1971.

9. This is all the evidence led by the employer. The workman, in his evidence, has stated that he joined the company in 1969 as a checking inspector; there was no practice of issuing appointment letters; Exh. W-1 is the card issued to him as checking Inspector; every year he was issued similar cards but he did not preserve the cards of 1969 and 1970; on 15-10-1972, he was issued an appointment letter for the post of helper (Exh. M-3), which he refused because his designation was changed; Exh. M-8 is his reply; he was called before the Board of Directors to give an explanation on 2 counts:

- i) refusal to receive the appointment letter; and
- ii) having proceeded on leave without prior intimation.

His services were terminated by letter Exh. M-16. He was not issued a charge sheet before he was removed from service; no domestic inquiry was held against him before his removal; Exh. W-2 is the book of his reports as checking Inspector during 1972. He complained against one conductor, Jacinto D'Souza, and the latter, as a revenge, also falsely complained against the workman saying that the workman had abused the Management. He was called by the Chairman, Melo e Crasto, and asked about the complaint of conductor Souza, which he denied.

In his cross, he has stated that he put in an application in writing and Smt. Niquelina, the then Chairman, appointed him as checking Inspector because his father was a share holder of the company; he has no documents to prove that he was checking Inspector in the years 1969 and 1970, but from the muster rolls and payment vouchers, maintained by the Company, this can be proved. He was always paid against payment vouchers. In the beginning, his pay was Rs. 100/- per month. He has denied that he was not paid by payment voucher in 1969 and 1970. Before 1969, on some occasions, he inspected vehicles as a nominee of his mother, but in 1969 he was appointed as regular checking Inspector. He has denied the suggestion that he was appointed to the post of helper in 1971 on temporary basis. He was not holding a temporary post but a permanent one. He has denied the suggestion that he was never appointed as permanent Inspector of the Company.

10. The other witness of the workman is one Sheikh Abdul Kadar. This witness has stated that the workman was working as ticket Inspector with the Company; at that time the witness was working for the same company as bus conductor. The witness joined the employer company in 1972 and gave up the job in 1975; when he joined, the workman was working as ticket Inspector and he remembers having seen the workman doing the same job even sometime in 1973. He does not know when the workman was removed from service. In his cross, he has stated that he came to know the workman only after the witness joined the Company. The workman used to come to inspect the buses and at that time identified himself with the identity card issued to him by the Company. The workman has checked several times the bus where the witness was working, when the workman was working as Inspector; he alone used to conduct the inspection. Occasionally, some of the Directors used to come and inspect the tickets. To the suggestion that the workman was conducting inspection as a nominee of his mother, the witness has said that he

saw the workman's card as Inspector and, because of this, he gave all the details asked for by the workman at the time of inspection. He has denied the suggestion that the workman was working as Helper.

11. Exh. W-2 is the note book of inspection conducted by the workman from 17th March 1972 upto 26-6-1972. In this book, the designation of the workman is shown as Inspector and it bears the signature of the Chairman Melo e Crasto on many of its pages. Exh. W-1 is the Inspection card issued to the workman on 9-2-1971, valid for the year 1971. Shri Lalchand, witness No. 1 for the employer, has admitted that Exh. W-1 is a genuine Inspection card signed by the Chairman of the Company and stated that such special cards were issued to staff members for doing the checking work and also for free transport.

Exh. 12B-1 is also an inspection card but valid for only one month. Such cards were issued to the share holders for the purpose of inspection.

12. Exh. W-1 and W-2, considered alongwith the statement of the workman and his witness, proves that the workman was working as a regular Inspector atleast from 9-2-1971. There is no evidence at all to show that he was holding this post prior to the said date.

13. Exh. M-1 is the application of the workman dated 25-3-1969 addressed to the Chairman of the Company to give him a chance to undergo training in the office work and, after training is over, to fix him in a suitable job. Below this application there is an order dated 26-3-1969 signed by Shri L. M. Shah, which reads as follows:

"For training under Stand-In-Charge to Shri Ramesh Naik". The witness Shah for the employer has stated that no letter was issued to the workman appointing him as a trainee and that there is also no record to show that the workman was appointed as a trainee; prior to 1-1-1972, he would have to be referred in the pay sheets. However, no pay sheets or even muster rolls have been produced by the employer, inspite of the prayers in this connection made by the workman in his statement of claim and also later. Such non production would allow the Court to draw an adverse inference against the employer.

14. The register Exh. M-2 produced by the Employer has not been properly maintained and shows the name of the workman under serial No. 31 and the date of his appointment as on 1-1-1972 with the designation as helper. This record was probably made on the basis of the appointment order Exh. M-3, refused by the workman.

15. In view of the documentary evidence led by the workman referred to in para 12 above and in the absence of any evidence led by the employer regarding the status of the workman prior to 9-2-1971, I am convinced that the workman was holding the post of Checking Inspector in the employer company at least from 9-2-1971, date on which the company issued him an Inspection Card of staff members (Exh. W-1). Prior to that, from 26-3-1969, date of the order passed on his application Exh. M-15, directing him for training under the Stand-In-Charge, he might have been either a trainee or a helper.

16. It is an admitted fact that no domestic inquiry as such was held against the workman before removing him from services. The charges levelled against the workman were: refusal to accept the letter of appointment dated 15-10-1972 appointing him as a helper w.e.f. 1-1-1972, absence from service without prior intimation and abusing the Management in the course of an incident which the workman had with the conductor Jacinto D'Souza.

17. Regarding the refusal to accept the appointment letter, the workman represented to the employer that he could not accept such letter unless his designation of checking Inspector was shown in the said letter. The employer refused and hence the workman did not accept the letter.

As the workman was holding the post of Checking Inspector at the time when the appointment order was issued, he was justified, in my view, in refusing the said appointment letter, Exh. M-3, because it changed his designation from Inspector to Helper. Such refusal does not amount to insubordination, as contended by the employer.

18. The other charge levelled against the workman is regarding his absence without prior intimation from 14-3-1973 to 20-3-1973.

From Exh. M-7 it is shown that the workman had applied for leave on 12-3-1973 and without caring to inquire about



the order on the said application, proceeded on leave from 14-3-1973, to 20-3-1973. The workman, when heard, gave his explanation regarding this charge, which the Management was free to accept or not.

19. It appears from the last portion of Exh. M-7 that the employer was inclined to condone the workman regarding his absence without permission provided he accepted the appointment letter; but, in case he insisted in refusing it, he would be taken to task on the charges of absence without permission and refusal to accept the appointment letter. The decision taken by the Board of Directors (Vide last portion of Exh. M-7) is as follows: "The Board of Directors has decided if Mr. Ramesh N. Naik in employment of the company fails to take the appointment letter as helper on 6-4-1973, then disciplinary action should be taken on the charges that Mr. Ramesh refused to take his appointment letter as helper and absence without permission by suspending time from services with half pay from the date 14th March 1973 till the final decision of the Board." This decision was taken by the Board of Directors after hearing the concerned parties. No disciplinary proceedings were taken against the workman after this decision and he was suspended from services with half pay from 14-3-1973 till the final decision of the Board (Vide Exh. M-7A). The matter was again considered by the Board in its meeting on 7-5-1973 (Exh. M-7b) in which also the incident of checking report No. 131, dated 23-5-1973, issued by the workman to the conductor Jacinto D'Souza for having found Rs. 5/- extra in his pocket was considered. This incident too was decided by the Board after hearing only the parties and, finally, the following decision was taken:

"Resolved that Mr. Ramesh N. Naik an employee of the company be taken to the task by dismissing from his service for his behaviour and offensive language used against the Managements "Haun Shahcher Muttam and Servischer muttam". Therein connection of checking report No. 131 dated 23rd May 1973 heard Shri Jacinto D'Souza states in his letter dated 27th April, 1973 that Shri Ramesh said in presence of passengers at Cortalim about 12.00 noon.

"Discussed in details the subject matter of checking report No. 122, dated 22nd March 1973, issued by Stand In-Charge Shri Pracash Poi Cuchelker to Shri Ramesh Naik for being absent without permission from 14th March, 1973 to 20th March, 1973 and for Shri Ramesh given an ample opportunity to take the appointment letter as helper which refused to take by Shri Ramesh even 7th May, 1973 in Board's meeting Mr. R. Almeida (Secretary of the Company asked Mr. Ramesh Naik to take the appointment letter as helper. Mr. Ramesh refused to take it, Shri Ramesh was present for hearing as per call letter dated 28th April, 1973, Board of Directors has finally decided that the service of Shri Ramesh Naik be terminated on charges of misbehaviour, insubordination with effect from 7th May, 1973.

Resolved that service of Shri Ramesh N. Naik on probationary nature be terminated with effect from 7th May, 1973. On charge of misbehaviour and insubordination because to take the appointment letter as helper.

2) Absent without permission. 3) Rash behaviour for having insulted and offencio language which used against Mr. Shah Vice-Chairman of the Company that "Haum Shahcher Muttam and Servischer Mutta".

Further resolved that the full wages be paid to Mr. Ramesh from 1st March to 13th March, 1973 and half wages for subsequent period i.e. from 14th March to 7th May, 1973 and be given any other benefits stands to his credit".

20. The workman was, therefore, dismissed without any disciplinary proceedings and without being given a fair opportunity to defend himself by leading his evidence and cross examining the other parties' evidence. This goes against the principles of natural justice and, therefore, cannot be upheld by this Tribunal.

21. Since there was no domestic inquiry or disciplinary proceedings against the workman regarding the three charges levelled against him which led to his dismissal, let us see whether the employer, in the evidence led before this Tribunal, has succeeded in proving the said charges.

22. Regarding the refusal to accept the appointment letter, this fact is admitted by the workman and it is, according to him, fully justified since the appointment letter in question changed the service conditions of the workman and hence he was not bound to accept it, as I have already stated above.

23. Regarding the absence without prior intimation from 14th March till 20th March 1973, the workman had submitted an application for leave on the 12th and, without caring to find out whether leave was granted or not he proceeded on leave. After the leave period was over, the workman reported for duty on 22nd but, as per the employer's version, he was directed to report in the office and have first his absence regularised. The workman, saying that he would report in the office the next day, went away and did not attend any work at the bus stand. He sent a letter dated 27-3-1973 to treat his absence as casual leave and continued to remain absent (vide para 6 of the written statement). The workman, on his side, contends that on the 22nd he was not allowed to resume duties and, after that, he was placed under suspension and, therefore, the Management's contention that he continued to remain absent is not correct.

24. The fact that, on the 22nd, the workman reported for duty and was not allowed to resume duties is admitted by the Management, who has added that the workman was directed to the office to get 1st his absence regularized. Regarding the suspension of the workman, the same is confirmed by Exh. M-7A, wherein it is ordered that the workman be suspended with half wages from 14th March till the final decision of the Board. The workman had given an explanation regarding his absence. If the Management did not find the explanation satisfactory, could have instituted disciplinary proceeding against the workman, by this way allowing him an opportunity to prove his allegations which they failed to do. It is to be noted that, as we have stated above, the Management itself did not attach much importance to such absence, because they were inclined to condone it, in case the workman accepted the appointment letter. At any rate, it would be too harsh to punish the workman with dismissal for such absence his suspension from service during the days of absence would be more than sufficient punishment for him, in case the Management did not want to treat his absence as casual leave, as prayed by the workman, but this only after instituting disciplinary proceedings against the workman.

25. Finally, regarding the incident with the bus conductor, Jacinto D'Souza, in the course of which it is alleged that the workman abused the Management: On this point, the Management has not led any evidence before the Tribunal to prove such abusive language. The Management's evidence consists only of the minutes of the meeting of the Board of Directors and the resolutions passed therein, which, as I have stated above, are not sufficient to hold the workman guilty, since no opportunity was given to the workman to defend himself by leading his evidence and cross examining the other parties evidence.

26. Further, the dismissal order without a proper and fair inquiry amounts to retrenchment of the workman. Such retrenchment also cannot be sustained because the conditions required to its validity under section 25F of the I.D.A., 1947, have not been complied with by the Management.

27. In view of all that has been stated above, I answer to this reference as follows:

The dismissal order passed by the Management against the workman, which is mainly due to his refusal for accepting the appointment order cannot be sustained, because it is illegal and unjustified. Hence, the workman is entitled to be reinstated in services as Inspector with continuity of service and full back wages. Costs of Rs. 300/- to be paid by the Management to the workman.

Dr. Renato de Noronha  
Presiding Officer  
Industrial Tribunal

Finance Department (Expenditure)

Order

No. 2-12-73-Fin(Exp)

Shri P. J. A. B. Carvalho, Deputy Director of Accounts in the Directorate of Accounts, Panaji is appointed on deputation as Manager (Accounts and Administration) in the Goa Meat Complex Ltd., Panaji in the scale of Rs. 1100-1600 vice Shri N. C. T. H. R. Noronha, Accounts Officer who is transferred and posted in the resultant vacancy in the

Directorate of Accounts as Dy. Director of Accounts. The terms and conditions of his deputation will be the same as contained in the Government of India, Ministry of Finance Office Memorandum No. F.10(24)/3/60, dated 4-5-61 as amended from time to time. The period of deputation will be for one year in the first instance. The Goa Meat Complex Ltd., Panaji shall be liable to pay to Government the leave salary and pension contribution at prescribed rate.

Shri P. J. A. B. Carvalho, Dy. Director of Accounts should move first and relieve Shri N. C. T. H. R. Noronha, Manager (Accounts and Administration).

By order and in the name of the Administrator of Goa, Daman and Diu.

*Subhash V. Elekar*, Under Secretary (Finance).

Panaji, 20th May, 1983.

### Law Department (Establishment)

#### Notification

No. 12-12-81/LD

In exercise of the powers conferred by Section 3 of the Notaries Act, 1952 (53 of 1952) read with rule 8 of the Notaries Rules, 1956, the Lieutenant Governor of Goa, Daman and Diu is pleased to appoint Shri Mohan Anandrao Redkar as a Notary for a period of three years in Margao area with effect from 1-5-1983.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

*R. V. Durbhatkar*, Under Secretary (Law) to the Govt. of Goa, Daman and Diu.

Panaji, 19th May, 1983.

#### Notifications by the High Court of Judicature, Appellate Side, Bombay

No. A.3902(G)/83

The Honourable the Chief Justice and Judges are pleased to post Shri M. C. Jethani, reinstated as Civil Judge, Junior Division by Government of Goa, Daman and Diu under its Order No. LD/1627/LA/79, dated the 3rd May, 1983, to be the Civil Judge, Junior Division and Judicial Magistrate, First Class, *Panaji (D) Court*.

High Court, Appellate Side,

Bombay, 18th May, 1983.

R. G. SINDHAKAR

Additional Registrar

I/C Registrar.

No. A. 3902(G)/83

In exercise of the powers conferred by Section 11(3) of the Code of Criminal Procedure, 1973 (No. 2 of 1974), the Honourable the Chief Justice and Judges are hereby pleased to confer the powers of a Judicial Magistrate of the First Class on Shri M. C. Jethani, reinstated as Civil Judge, Junior Division, by Government of Goa, Daman and Diu.

High Court, Appellate Side,

Bombay, 18 May, 1983.

R. G. SINDHAKAR

Additional Registrar

I/C Registrar.